

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

HOLIDAY INN EXPRESS HOTEL AND SUITES
DOWNTOWN MINNEAPOLIS¹

Employer

and

HOTEL EMPLOYEES & RESTAURANT
EMPLOYEES UNION, LOCAL 17, AFL-CIO

Petitioner

Case 18-RC-16489

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to me.

Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.²

¹ The Employer's name appears as amended at the hearing.

² Petitioner sought at the hearing to prove that there is a practice of excluding front desk employees from housekeeping units in the Minneapolis metropolitan area. The hearing officer rejected this evidence. In view of my conclusion that the record establishes that a housekeeping unit is appropriate without such evidence, I find it unnecessary to address Petitioner's contention in its post-hearing brief that its area practice evidence should have been received. Moreover, since the hearing officer rejected Petitioner's evidence, I conclude that it is unnecessary to address the Employer's contention in its post-hearing brief that it should have been permitted to offer evidence in rebuttal.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.³

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The Petitioner seeks a unit, as amended at the hearing, consisting of all housekeeping employees. The proposed unit would include, at a minimum, room attendants, laundry attendants, and housepersons employed by the Employer at its 225 South 11th Street, Minneapolis, Minnesota facility. The Employer, contrary to the Petitioner, contends that all of its hourly employees (except an office clerical employee) perform overlapping duties, and otherwise share such an overwhelming community of interest, that the only appropriate unit must also include front desk clerks, breakfast bar attendants, and PBX operators.

A. Organizational Structure

The Employer has operated a hotel in downtown Minneapolis, Minnesota, since April 1998. The hotel is a comparatively small, limited-service facility. It does not operate a restaurant or a lounge, and it does not operate a 24-hour-per-day kitchen. However, the hotel maintains a pool, an exercise room, and a conference room.

³ The Employer, Holiday Inn Express Hotel and Suites Downtown Minneapolis, a Minnesota corporation with an office and place of business in Minneapolis, Minnesota, operates a hotel. During the last 12 months, a representative period, the Employer purchased and received goods and materials valued in excess of \$50,000 at its Minneapolis, Minnesota facility directly from suppliers outside the State of Minnesota. Within the same period, the Employer derived gross revenues in excess of \$1,000,000.

The organizational structure of the Employer consists of a general manager at the top, with the sales director, the housekeeping manager, and the front desk manager as the mid-level managers. The Employer also maintains a housekeeping supervisor and a front desk supervisor. The parties agree that these individuals are properly excluded from the unit as supervisors within the meaning of the Act. The parties also agree that an office clerical employee is properly excluded.

The general manager has the ultimate authority regarding who is hired and fired, although the two department managers are also responsible for hiring employees in their respective departments. Additionally, the department managers are responsible for training employees within their departments.

There are approximately 24 to 26 employees classified as room attendants, laundry attendants, housepersons, PBX/houseperson, PBX/breakfast bar attendant, breakfast bar attendants, and front desk clerks. These employees are divided into two general departments. First, there is the housekeeping department, which consists of the room attendants, the laundry attendants, and the housepersons and totals approximately 16 employees. These employees are supervised by the housekeeping manager and the housekeeping supervisor. Second, there is the front office department, which consists of the PBX/houseperson, PBX/breakfast bar attendant, breakfast bar attendants, and front desk clerks. There are approximately 8 to 10 employees in the front office department. However, according to the Employer, the PBX/houseperson is supervised by the housekeeping manager while she or he is doing houseperson duties. Also, if one of the department managers is absent, the other manager typically supervises all the employees for that day.

B. Duties and Hours

The duties and hours required of each of the classifications are detailed below:

Room Attendants. Room attendants are responsible for cleaning the guest rooms and responding to guest requests. They typically work from 9:00 in the morning to 3:00 or 4:00 in the afternoon. They apparently have no responsibility for cleaning other areas of the hotel or assisting other employees.

Laundry Attendants. The laundry attendants' primary responsibility is to do the laundry. They are required to wash and dry all the linen and towels. These employees are also responsible for folding the linens and towels and properly storing them. Additionally, the laundry attendants assist with the breakfast bar in the morning and they also clean and inspect rooms. The laundry attendants typically work from 9:00 in the morning to 3:00 or 4:00 in the afternoon.

Housepersons. The housepersons are responsible for cleaning the public areas of the hotel including the pool area, exercise room, lobby, and breakfast area. They also assist with the breakfast bar and clean and inspect rooms. Housepersons work from about 8:00 or 9:00 in the morning to about 5:00 in the evening. There is also a shift that works from 5:00 to 9:00 p.m. This evening shift is covered by employees in the PBX/houseperson classification.

PBX/Houseperson. The PBX/houseperson fulfills two main functions. First, this employee answers the telephone. This responsibility consumes approximately 50 percent of the PBX/houseperson's workday. Second, the PBX/houseperson fulfills all the functions of the houseperson during the 5:00 to 9:00 p.m. shift, including cleaning and maintaining the public areas in the hotel and delivering requested items to the guest rooms.

PBX/Breakfast Bar Attendant. The PBX/breakfast bar attendant also spends about 50 percent of his or her time answering the telephone. The PBX/breakfast bar attendant also assists with the breakfast bar, cleans the public areas of the hotel, and performs other houseperson duties. The record does not disclose the exact hours worked by this employee.

Breakfast Bar Attendants. The hotel serves a buffet-style breakfast each morning from 6:30 to 9:30. The breakfast bar attendants' primary responsibility is to set up, maintain, and clean up the breakfast bar. However, these employees also perform houseperson duties, clean the parking lot and other exterior areas of the hotel, carry luggage, occasionally answer the telephone, and clean the lobby. These employees work from 6:00 a.m. to about noon.

Front Desk Clerks. The front desk clerks spend most of their workday at the front desk. Their primary responsibility is to answer the telephone and check guests in and out of the hotel. However, at times they have also delivered requested items to the rooms, maintained the lobby and other public areas, assisted with the breakfast bar, carried luggage, cleaned rooms, performed minor maintenance such as unplugging toilets and changing light bulbs, and assisted with the laundry. Their responsibility for performing functions outside the front desk generally occurs when the other employees are not on duty during the evening or nighttime. The front desk manager testified that they wash linens about once each month and fold towels about once each week. The general manager testified generally that they clean rooms about four or five times each week. However, he could not recall the last instance in which a front desk clerk actually cleaned a room. Also, while front desk clerks apparently help other classifications, no other employees perform their duties (although the PBX operators answer the telephone from the switchboard). There are three shifts of front desk clerks, and at least one clerk is always working. There is no evidence that housekeeping employees perform front desk duties.

C. Terms and Conditions of Employment

Although each of the employees is paid an hourly wage, they are paid different amounts. The housekeeping employees start at \$7.15/hour. After 90 days their pay increases to \$7.85/hour on weekdays and \$8.70/hour on the weekends. The front desk clerks start at \$7.50/hour and jump to \$8.00 or \$8.50/hour after 90 days, depending on previous experience. The breakfast bar attendants start at \$8.00/hour and move to \$8.50 after 90 days. Typically, employees in all departments receive a raise on each anniversary of their start date at the Employer. Occasionally, employees will also receive a merit raise based on performance.

With the exception of the front desk clerks, all employees are required to wear a uniform consisting of a green polo shirt and black pants. The front desk clerks are permitted to wear street clothes, although the general manager indicated that he was going to reinstitute a dress code consisting of a shirt and blazer. Additionally, all of the employees share a break room, use the same restrooms, use the same entrance, and are allowed to park in the parking lot. Each employee receives the same benefits, is subject to the same rules of conduct, and is given an identical employee handbook.

There have been no permanent transfers between housekeeping and front desk classifications. There is no bargaining history involving any of the Employer's employees. None of the employees is required to have licenses or unique skills to perform their duties.

D. Analysis and Conclusions

The principal question in this case is whether a unit limited to housekeeping employees as sought by Petitioner is an appropriate unit. The Board will direct an election in such a unit

regardless of whether it is the most appropriate unit or even whether another unit is more appropriate. Omni International Hotel, 283 NLRB 475 (1987).

Having considered the record as a whole, I conclude that a unit limited to housekeeping employees is an appropriate unit. In reaching this conclusion, I have relied on the facts that the housekeeping employees are separately supervised; that the housekeeping department manager is responsible for hiring and training housekeeping employees; and that there have been no permanent transfers between housekeeping employees and front desk employees. Stanford Park Hotel, 287 NLRB 1291 (1988); Omni International Hotel, 283 NLRB at 475. I have also carefully considered the facts that all of the employees the Employer would include in the unit ultimately report to the general manager; that they are all hourly paid; that their wage rates fall within a similar range; that they wear similar although not identical attire; that they use the same facilities; that they are all subject to the same employee handbook and rules of conduct; and that they all have the same benefits. However, the Board has previously concluded that the existence of such common working conditions is insufficient to compel the conclusion that only a hotel-wide unit is appropriate. Stanford Park Hotel, 287 NLRB at 1292; Omni Hotel International, 283 NLRB at 476. I have also carefully considered the testimony of the Employer's witnesses to the effect that the front desk employees frequently perform duties similar to those performed by housekeeping employees. However, I also note that the front desk employees generally do so only on an "as needed" basis and when housekeeping employees are not present. In addition, the record establishes that the principal duties of the housekeeping employees involve cleaning and laundering; and that, in contrast, the principal duties of the front desk employees involve checking guests in and out and other duties directly related to and performed at the front desk. In these circumstances, the record fails to affirmatively establish that the respective duties of

front desk employees and housekeeping employees overlap so frequently and regularly and that their duties have become so blurred that they are no longer distinctive. Dinah's Hotel and Apartments, 295 NLRB 1100, 1101 (1989). A different conclusion is not mandated by the facts that the Employer operates a relatively small and limited-service facility and that it employs a relatively small staff. These are not dispositive factors in making unit determinations in the hotel and motel industry. Id. Accordingly, and on the basis of the foregoing reasons and authorities, I conclude that a unit limited to housekeeping employees is an appropriate unit. Finally, and although not essential to the conclusion I have reached, I note that the front desk employees, by virtue of their separate supervision and distinctive duties, would doubtless constitute a separate appropriate unit. Id.

The remaining question is whether any classifications of employees should be included in the housekeeping unit sought by Petitioner in addition to the room attendants, laundry attendants and housepersons. For the reasons set forth below, I conclude that the PBX/houseperson, the breakfast bar attendants and the PBX/breakfast bar attendant should likewise be included in the housekeeping unit.

The PBX/houseperson spends approximately 50 percent of his or her time performing housekeeping duties. These duties include cleaning the public areas of the hotel and delivering requested items to the guest rooms. The record reflects that the individual hired for an evening houseperson position was assigned to the PBX/houseperson position.

The breakfast bar attendants spend a substantial amount of their time performing housekeeping functions. While their primary responsibility is maintaining the breakfast bar, the record demonstrates that the breakfast bar attendants, like the housepersons, clean the lobby and other public areas of the hotel; maintain the exterior of the hotel; and, like the room attendants,

clean rooms. A further similarity in duties is demonstrated by the fact that a laundry attendant, who is a housekeeping department employee, is the primary backup to the breakfast bar attendants.

The PBX/breakfast bar attendant spends approximately 50 percent of his or her time performing breakfast bar duties. Like the breakfast bar attendant, the PBX/breakfast bar attendant's duties include cleaning the public areas of the hotel, maintaining the exterior areas of the hotel, and performing houseperson duties.

On the basis of the foregoing and the record as a whole, I conclude that the PBX/houseperson, the breakfast bar attendants and the PBX/breakfast bar attendant perform duties substantially similar to the housekeeping employees and otherwise share a community of interest with them; and that therefore they should be included in the housekeeping unit. In reaching this conclusion, I have relied on the fact that, as noted above, all of the Employer's hourly employees share certain common working conditions. I have also taken into consideration the facts that the PBX/houseperson, the breakfast bar attendants and the PBX/breakfast bar attendant are classified as front desk department employees and that they are under the direct supervision of the front desk department manager when they perform duties directly related to answering phones or the breakfast bar. However, the significance of these facts is outweighed by the facts that they spend substantial amounts of their workday performing duties that are the same as or substantially similar to those performed by the housekeeping department employees and that they do so under the supervision of the housekeeping department manager. Accordingly, I will include the PBX/houseperson, the breakfast bar attendants and the PBX/breakfast bar attendant in the housekeeping unit. Ramada Inns, Inc., 221 NLRB 689, 691 (1975).

6. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time housekeeping employees, including room attendants, laundry attendants, housepersons, breakfast bar attendants, PBX/housepersons, and PBX/breakfast bar attendants employed by the Employer at its 225 - 11th Street South, Minneapolis, Minnesota facility; excluding front desk clerks, office clerical employees, managers, and guards and supervisors as defined in the Act, as amended.

DIRECTION OF ELECTION⁴

An election by secret ballot will be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period, and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are persons who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike

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Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **August 10, 1999**.

which commenced more than 12 months before the election date and who have been permanently replaced.⁵

Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by the Hotel Employees & Restaurant Employees Union, Local 17, AFL-CIO.

Signed at Minneapolis, Minnesota, this 27th day of July, 1999.

/s/ Ronald M. Sharp

Ronald M. Sharp, Regional Director
Eighteenth Region
National Labor Relations Board

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To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969). Accordingly, it is directed that two copies of an election eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. In order to be timely filed, this list must be received in the Minneapolis Regional Office, Suite 790, Towle Building, 330 Second Avenue South, Minneapolis, MN 55401-2221, on or before **August 3, 1999**. No extension of time to file this list may be granted by the Regional Director except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.